

## REMARKS

The claims are 1-15. Reconsideration is respectfully requested.

Initially, the Examiner rejected the claims as allegedly indefinite under 35 U.S.C. § 112, second paragraph. In particular, the Examiner takes issue with the phrase “normal pressure”. Applicants respectfully traverse this rejection.

It is submitted that one of ordinary skill in the art reading the present specification would clearly understand normal pressure to mean the atmospheric pressure at the place where the method was being practiced. The Examiner will note that the glassware shown in figure 2 is open to atmospheric pressure. Thus, as used in the present claim normal pressure is not a pressure that has been reduced or increased over the atmospheric pressure. This can be readily deduced from the discussion at page 8, paragraphs 44 and 45 regarding maintaining the temperature at 80 to 90 °C, i.e., below the boiling point of water or alternatively boiling the water at a “normal pressure” and temperatures of 98 °C to 100 °C, which is well known to occur at typical atmospheric pressure.

It is also noted that normal pressure has been defined in at least one scientific dictionary as meaning standard pressure, i.e., a pressure of 1000 millibars. See enclosed definition of standard pressure and normal pressure in the McGraw-Hill Dictionary of Scientific and Technical Terms, 5<sup>th</sup> edition 1994. It is clear, however, that the present application did not intend a rigid definition for the phrase “normal pressure” since atmospheric pressure is dependent on elevation and weather. The fact that normal pressure was not meant to be rigidly defined can be readily seen at paragraph 45 on page 8 where it is indicated that water will boil at normal pressure and a temperature of 98 °C to 100 °C. It is well known that water boils at 100 °C at a pressure of 1000 millibars. It does not boil at 98 °C at 1000 millibars pressure, but

would boil at 98 °C at a lower pressure. Thus, the present disclosure clearly recognizes and teaches to one of ordinary skill in the art that “normal pressure” is meant to be the ambient atmospheric pressure. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. §112, second paragraph be withdrawn.

Claims 1-5, 10, 12, 14, 16 and 17 remain rejected under 35 U.S.C. 102(b) as allegedly being anticipated by CA2161127. As previously noted, this reference corresponds to EP 0698076 which is discussed in paragraphs 3 and 4 of the present application. In particular, it is noted at page 5 of CA2161127 that during microwave irradiation of the biological material that the pressure of the microwave enclosure is reduced. This is a significant drawback because the apparatus needed to conduct the process of CA2161127 is comparatively more costly because of the pressure reduction requirement.

The Examiner asserts that the “normal pressure of Mengal et al. is taken as the pressure, under vacuum and the ambient pressure as this is the ‘normal pressure’ of Mengal et al...”. It is respectfully submitted that the Examiner’s construction of the meaning of “normal pressure” is incorrect. Once “normal pressure” is given its appropriate meaning, i.e., atmospheric pressure that has not been reduced by vacuum or increased by other means, it becomes clear that the disclosure of Mengal does not anticipate the claims or render them obvious.

It is again respectfully submitted that CA2161127 does not render obvious the presently claimed method. There is simply no suggestion to perform the microwave irradiation at normal pressure.

Claim 6 remain rejected as allegedly obvious under 35 U.S.C. 103 over CA2161127 in view of Chen. Claims 7-9 and 13 remain rejected as allegedly obvious over

CA2161127 in view of U.S. Patent No. 3,578,567 (Malvin). It is respectfully submitted that neither Chen or Malvin remedy the deficiencies of CA2161127.

Chen is directed to microwave assisted extraction to assist in solid phase microextraction analysis of fruits and vegetables for pesticides. It appears that the samples were preferably placed in a 10% ethylene glycol solution prior to microwave extraction. The pesticides were then collected on polydimethylsiloxane coated fibers for gas chromatographic analysis.

The Examiner asserts that Chen is being relied upon for its teaching of an obliquely arranged, rotatable receiving container. However, Chen is directed to collecting pesticides, not natural substances. In addition Chen uses a solvent, i.e., it is not a solventless system. Thus a combination of Chen with Mengal would neither be suggested or lead to the claimed solventless extraction method for natural substances.

As previously noted, Malvin is directed to a method of separating individual solvent components from a solvent mixture. The Examiner asserts that Malvin is being used for its disclosure of collecting volatile substances using a partition. However, it is not seen why it would have been suggested to use the partition of Malvin, which is clearly used with a solvent mixture, in a solventless system. Thus, there is no suggestion, either alone or combined with CA2161127, of the presently claimed invention.

Claims 11 and 15 were rejected as allegedly obvious solely over CA2161127. However, as discussed above, it is respectfully submitted that CA2161127 would not have suggested irradiating the biological material while maintaining the pressure in the microwave chamber at normal pressure.

Wherefore, it is respectfully submitted that the cited art, whether taken alone or together, does not suggest or disclose the presently claimed invention. Accordingly, it is respectfully requested that the claims be allowed and the case passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

/Raymond R. Mandra/  
Raymond R. Mandra  
Attorney for Applicants  
Registration No.: 34,382

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

FCIS\_WS 2104891\_1.DOC